HON'BLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO.3761 OF 2005

DATE:22.02.2007

Between:

P. Raja Nishanth

..... PETITIONER

AND

Board of Intermediate Education,
A.P., rep. By its Controller of Examinations,
Vidhya Bhavan, Nampall, Hyderabad & another

.....RESPONDENTS

HON'BLE SRI JUSTICE R. SUBHASH REDDY

W.P. No.3761 OF 2005

ORDER:

In this writ petition, the petitioner seeks a Writ of Mandamus to declare the action of the respondents in not accepting the request of the petitioner for revaluation of his Physics Paper-II, as illegal and arbitrary.

Petitioner appeared for the intermediate II year examinations in the month of March, 2004. Though he had secured qualifying marks in all other subjects, so far as the subject of Physics is concerned, he was declared as failed. A copy of the answer script is filed along with the material papers. Relying on that, learned counsel for the petitioner submits that inasmuch as the petitioner has secured better marks in all other subjects, he could not have failed in Physics and it must be only because of improper valuation, the petitioner was declared as failed in Physics. It is submitted that when the petitioner has shown the answer script to the other examiners, who were having expertise in the subject, he was told that he deserves to be awarded minimum of 45 marks for his answers. Learned counsel relied on the judgment of the Apex Court in **The President Board of Secondary Education, Orissa v. D. Suvankar** (JT 2006 (10) SC 103).

In this case, it is to be seen that except the general allegation that the valuation of the Physics Paper-II was not properly done, there is no basis for the allegation of the petitioner. Having scrutinized the answer script filed in the material papers, it is seen that every answer was valued and the marks awarded thereagainst were given to the petitioner. It is now fairly well settled that unless there is a specific provision for revaluation, petitioner cannot seek for revaluation, as a matter of right. Even the submission of the learned

counsel that the answer script was shown to some other expert in the subject and there was an indication that he was to be awarded minimum 45 marks cannot also be the basis to entertain this writ petition when the valuation was done by the experts in the subject. Unless it is demonstrably proved with the supporting material that valuation was not done correctly, this Court cannot interfere in this writ petition filed under Article 226 of Constitution of India. Though the petitioner has relied on the judgment of the Apex Court in **D. Suvankar**'s case, referred to supra, the ratio laid down therein does not support the case of the petitioner. In the above said case, though at the first instance, the candidate was issued memorandum of marks declaring that he secured 654 marks out of 750, but however, subsequently a mistake was found in counting the marks and Board itself has corrected that mistake and issued a fresh marks list showing 690 marks. In that view of the matter, the judgment referred to above, is not helpful to the case of the petitioner.

Inasmuch as the subject experts have valued the paper of the petitioner, no interference can be made with it. In that view of the matter, I do not find any ground to entertain the writ petition.

The Writ Petition fails and is accordingly dismissed. No costs.

R. SUBHASH REDDY, J

22nd FEBRUARY, 2007.
Tsr